IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELALTE SIDE

APPEAL FROM ORDER NO.840 OF 2005

Habibullah Wazid Ali Khan. ...Appellant.
Vs.
Bombay Municipal Corporation. ...Respondent.
....
Mr. Manojkumar Upadhaye for the Appellant.
Mrs. Geeta Joglekar for the Respondent.
.....

CORAM : DR.D.Y.CHANDRACHUD, J.

November 14, 2005.

P.C.:

The Learned Trial Judge has declined to grant ad-interim relief by his order dated 8th August 2005. In the previous order that was passed by the City Civil Court on 6th May 2005, in Notice of Motion No.5316 of 2004 in L.C. Suit No.5842 of 2004 to which the Appellant was a party, it was found that (i) The Municipal Corporation had followed due process of law under Section 299 of the Mumbai Municipal Corporation Act, 1888; (ii) The structure in question, was affected by the D.P. Road; and that (iii) The completion of the junction of two roads had been held up on account of the obstruction caused by the suit structure. The Municipal Corporation had also offered alternative

accommodation. The earlier Motion was in the circumstances, disposed of.

In the fresh Notice of Motion which has been taken out in L.C. Suit No.3101 of 2005, instituted by the Appellant, the Learned Trial Judge while declining an ad-interim injunction has noted that the structure is affected by the road line and that the balance of convenience warrants refusal of ad-interim relief. Alternate accommodation has also been offered to the Appellant. This appeal has been adjourned previously on 26th September 2005, 27th September 2005 and 11th October 2005. In my view, no case for interference is made out. The Motion for interim relief is still pending where the parties can urge their respective contentions. The appeal, in these circumstances, is dismissed.

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